



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. 26.2.C20/C/USA

In re Application of: )  
Joseph J. Walto et al. )  
Serial No. 10/804,850 )  
Filed 03/19/2004 ) Group Art Unit 3652  
For TRACKED COMPACT ) Examiner D. Underwood  
UTILITY LOADER )  
)

**INFORMATION DISCLOSURE STATEMENT**

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR §§ 1.56, 1.97 and 1.98, the Applicants wish to bring the following information to the attention of the Patent and Trademark Office in conjunction with the prosecution of the above-identified patent application.

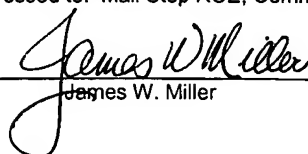
**Notice of Concurrent Litigation Under MPEP §2001.06(c)**

US Patent 6,709,223 issued from parent application 10/254,047. The 223 patent is currently involved in patent litigation entitled The Toro Company v Ingersoll-Rand Company Limited and Clark Equipment Company in the United

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**Certificate of Mailing under 37 CFR § 1.8.**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450  
on 4/3/07.

  
James W. Miller

States District Court, District of Minnesota, Civil Action No. 06-3073MJD/AJB. The case is in discovery and no trial date has been set.

The defendant in the above-entitled litigation has asserted invalidity of various claims of the 223 patent, including claim 3 of the 223 patent, based upon various references. Attached hereto is Defendant Bobcat's Prior Art Statement filed in conjunction with such assertions in the above-entitled litigation.

### **Notice of Additional Prior Art**

To the extent the Defendant Bobcat's Prior Art Statement includes references that are not of record in the above-entitled patent application, such references are being additionally cited herein. Thus, the additional references listed on the attached Forms PTO/SB/08A and/or 08B are being brought to the attention of the Patent and Trademark Office.

These references include various Non-Patent Literature Documents that are undated. **The Applicants have admitted that some of these NPL documents comprising photos of various tractors or loaders are prior art to the above-identified patent application as indicated by the phrase "(undated but admitted prior art)" used on Form PTO/SB/08B. However, as to the last five items listed on Form PTO/SB/08B, it is unclear whether such items are early enough to be prior art to the above-identified patent application.**

Concise explanations of the relevance of the references that are known to be prior art follow:

- Bauer 365, Bauer 261, Lynnes, Donoghue, Johnson, and the photographs of the Melroe M200, Bobcat M400 SSL (Skid Steer Loader), Bobcat M440 SSL and Bobcat M371 SSL all show loaders comprising a wheeled vehicle that carries a seated operator. The loaders have a pair of pivotal loader arms that pass down beside the operator's seat when the loader arms are in their lowered

position. The loader arms are raised and lowered by hydraulic cylinders.

- Hillard discloses a wheeled walk behind trencher.
- Woerner shows a tracked walk behind machine having a pair of pivotal arms 30 for holding a roll of sod. The purpose of the machine is to hold the roll of sod as it is unrolled onto the ground.
- Whiffin shows a skid steer earth working machine with a pair of pivotal lifting arms 18. The machine may be operated either by an operator who stands on the machine or walks behind the machine. See Page 1 of Whiffin, Lines 23-26. Whiffin discloses that the machine may be supported either by wheels or tracks. See Page 2 of Whiffin, Lines 2-4.
- See Fig. 1 of Hirotaka which appears to show operation of Hirotaka's device either by an operator who stands on the machine or walks behind the machine. Hirotaka has a bucket 6 mounted on a boom at the front of the machine as well as a front bulldozer type blade 3.
- Iwao shows a tracked walk behind machine having a revolving digging blade 8 supported at the front thereof.
- The four tractor photographs from [antiquetractors.com](http://antiquetractors.com) illustrate various implements, including one walk behind implement, which have a bucket at the front thereof carried on a pair of pivotal loader arms.

The Applicants do not believe that any of this prior art renders any claims in the above-identified application unpatentable. Moreover, much of this prior art is merely cumulative to the prior art of record in the above-identified patent application, including the prior art loader shown in the Toro Dingo Rubber-Over-Tire Tracks Brochure. The Examiner has previously considered the Toro Dingo product and allowed claims 2-12 over this prior art. This indicated allowability of claims 2-12 is not affected by the additional prior art being cited herewith.

I am enclosing copies of the foreign patent references including copies of any translated portions in my possession of the non-English language foreign patent references. I am also enclosing copies of the NPL documents.

The summaries of the references provided herein are for the convenience of the Examiner. The Examiner should also thoroughly review the references to independently determine relevance.

April 3, 2007

Respectfully submitted,



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Substitute for form 1449/PTO

**(Use as many sheets as necessary)**

Application Number	10/804,850
Filing Date	03/19/2004
First Named Inventor	Joseph J. Walto
Art Unit	3652
Examiner Name	D. Underwood
Attorney Docket Number	26.2.C20/C/USA

[illegible]

FOREIGN PATENT DOCUMENTS						
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document	Publication Date	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T <sup>6</sup>
		Country Code <sup>3</sup> Number <sup>4</sup> Kind Code <sup>5</sup> (if known)	MM-DD-YYYY			
		AU 41250/89	11-30-1989	Whiffin		
		JP 02-279834	11-15-1990	Hirota et al.		
		JP 05-176639	07-20-1993	Iwao et al.		

Date Considered	
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Substitute for form 1449/PTO

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

**Complete if Known**

Application Number	10/804,850
Filing Date	03/19/2004
First Named Inventor	Joseph J. Walto
Art Unit	3652
Examiner Name	D. Underwood
Attorney Docket Number	26.2.C20/C/USA

Sheet 2 of 2

**NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		Four Photographs of Tractors from antiquetractors.com (undated but admitted prior art)	
		Photograph of Melroe M200 Loader (undated but admitted prior art)	
		Photograph of Bobcat M400 SSL (undated but admitted prior art)	
		Photograph of Bobcat M440 SSL (undated but admitted prior art)	
		Photograph of Bobcat M371 SSL (undated but admitted prior art)	
		Photograph of Bobcat 463 SSL	
		Photograph of Bobcat 864 SSL	
		Bobcat 322 Compact Excavator brochure	
		Finn Skid Steer 250 brochure, dated 2000.	
		Ramrod Trackmaster 910 Mini Skid	

Examiner Signature		Date Considered	
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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